



Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Daniel Bennett
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Telephone # (508) 650-4500

Facsimile # (508) 650-4599



Paul M. Treseler
Chairman

DECISION

IN THE MATTER OF

DANIEL SANTOS

W85177

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: September 21, 2017

DATE OF DECISION: August 6, 2018

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Lucy Soto-Abbe

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of offense, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in three years from the date of the hearing.

I. STATEMENT OF THE CASE

On March 18, 2005, in Middlesex Superior Court, Daniel Santos was found guilty of first degree murder and sentenced to life in prison without the possibility of parole. He filed an appeal, which resulted in his first degree murder conviction being overturned.¹ On October 12, 2010, Mr. Santos pleaded guilty to second degree murder in the death of Jose Paulino. He received a sentence of life in prison with the possibility of parole.

On October 18, 2002, at approximately 9:45 p.m., 18-year-old Daniel Santos shot and killed 39-year-old Jose Paulino. Lowell police received information that shots were fired at 8-10 Chambers Street, and a car had left the scene. When officers arrived, they observed the door of

¹ *Commonwealth v. Daniel Santos*, 454 Mass. 770 (2009)

the home to be open. Officers found Jose Paulino in the bathtub, with the water running. He was naked and had succumbed to two gunshot wounds to the chest. Officers found three shell casings in the bathroom, and an initial ballistic examination would determine that one shot was fired through the shower curtain, grazing Mr. Paulino's neck. Officers spoke with witnesses, including a man who had been in the apartment with Mr. Paulino at the time of the murder. It was revealed that Mr. Santos shot Mr. Paulino because Mr. Paulino had made a "pass" at his girlfriend. Mr. Santos was arrested at his aunt's house in the Bronx, New York, and brought back to Massachusetts. He told police that he shot Mr. Paulino.

II. PAROLE HEARING ON SEPTEMBER 21, 2017

Daniel Santos, now 33-years-old, appeared before the Parole Board for an initial hearing on September 21, 2017. He was not represented by counsel. In Mr. Santos' opening statement, he apologized to Mr. Paulino's family and friends, as well as the community, stating, "Mr. Paulino did not deserve to be murdered." He expressed his sorrow for all the pain and suffering he caused Mr. Paulino's family. Mr. Santos said that at the time of the murder, he had not thought of Mr. Paulino "as a human being." Rather, he was thinking of himself. Mr. Santos indicated that he had known Mr. Paulino, as they both sold narcotics for the same drug dealer.

Mr. Santos stated that he came to the United States at the age of 11. As a child, he packaged narcotics for Mr. Paulino to deliver to customers. As he got older, Mr. Santos got paid for making the deliveries himself. Mr. Santos stated that as a child, he was abused by Mr. Paulino and, later, he suffered mental abuse. At age 16, he quit school, as well as a job at Boston Market. He stated that he was focused on selling drugs. He told the Board that he was living with his mother, sister, brother-in-law, three children, Mr. Paulino, and another individual. Mr. Santos also acknowledged to the Board that he was drinking beer and smoking marijuana. At the time of the murder, he had been dating his girlfriend for about a year. Mr. Santos explained that after his girlfriend disclosed to him that Mr. Paulino had grabbed her on her buttocks, he grew very angry with Mr. Paulino. He stated that, as time passed, his emotions turned from revenge to "fight[ing] for [his] honor."

Mr. Santos stated that on the day of the murder, he was in Mr. Paulino's apartment. Mr. Santos stated that he had access to a gun and had it in his mind to murder Mr. Paulino; however, he didn't know how he was going to kill him. After speaking with another individual for a short period of time, Mr. Santos said he observed Mr. Paulino going towards the shower. He told the Board that he went to his car to obtain a firearm and then returned, proceeding to the bathroom. While Mr. Paulino was in the shower, Mr. Santos said he shot Mr. Paulino through the curtain. He then opened the curtain and shot him two more times. Mr. Santos left the apartment and was arrested three days later in New York. He added that Mr. Paulino never saw him fire the gun. A Board Member asked Mr. Santos if he ever gave a different version of the offense. Mr. Santos acknowledged that he had, stating that "when I got arrested in New York, I was claiming self-defense." Mr. Santos told the Board that in 2011, he finally started telling the truth about the facts surrounding the murder.

When questioned by the Board about programming and employment, Mr. Santos said that he works in the welding shop as an assistant (to the welder) instructor. He added that he attends church on Saturdays and participates in programming. Mr. Santos spoke of some of the programs he completed, including the Correctional Recovery Academy. Specifically, he noted that the

Emotional Awareness program helped him "dig deep into [himself]" and "reflect." A Board Member noted a direct correlation between Mr. Santos' programming involvement, which started in 2011, and his last disciplinary report in 2011. Disciplinary reports in 2005, 2007, and 2009, included fighting, making an inappropriate comment to a staff member, and possession of weapons and alcohol. Mr. Santos stated that his disruptive behavior was attributed to the fact that he was "first degree," as well as "immature." He wanted to create an "image where [he could] fit in with everybody." When a Board Member asked Mr. Santos how many different weapons he possessed during the course of his incarceration, he responded that there were "many different ones." He added, however, that the last time he possessed a weapon, or drank alcohol, was in 2009. Mr. Santos said that he joined a gang in 2004 because he wanted people to look at him as a strong person. Although he said he officially renounced gang involvement in 2015, Mr. Santos stated that he distanced himself from gang activity in 2010.

Mr. Santos acknowledged that he has been ordered deported to the Dominican Republic where, if paroled, he has a job at a welding company. If not deported, he could reside with a family in Massachusetts. When asked by a Board Member to describe the challenges he would face if released, Mr. Santos responded that he has completed a basic computer program to help address the advancement of technology. He also expressed some concern about applying for jobs, particularly, as to how he will be perceived based on his history. When a Board Member asked Mr. Santos to discuss any other areas that he may need to address, he acknowledged the need for further rehabilitation, since he has "a lot of room to grow."

The Board considered testimony in support of parole from Mr. Santos' nephew and niece. Middlesex County Assistant District Attorney Elizabeth May provided testimony in opposition to parole.

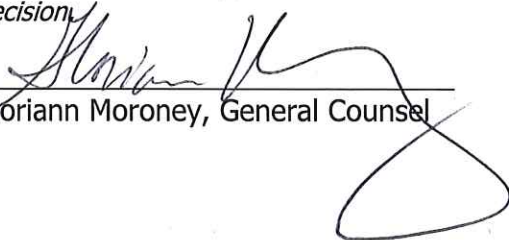
III. DECISION

The Board is of the opinion that Daniel Santos has not yet demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Santos needs a longer period of positive adjustment and program involvement. He has yet to come to terms with his criminal culpability, as he shot an unarmed man in the shower. In addition, he should refrain from any gang involvement/ affiliation.

The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." 120 C.M.R. 300.04. In forming this opinion, the Board has taken into consideration Mr. Santos' institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board has also considered a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Santos' risk of recidivism. After applying this standard to the circumstances of Mr. Santos' case, the Board is of the unanimous opinion that Daniel Santos is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Santos' next appearance before the Board will take place in three years from the date of this hearing. During the interim, the Board encourages Mr. Santos to continue working towards his full rehabilitation.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. Pursuant to G.L. c. 127, § 130, I further certify that all voting Board Members have reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.



Gloriann Moroney, General Counsel



Date